

EXHIBIT 6

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

EDEN ROGERS

and

BRANDY WELCH,

Plaintiffs,

vs.

CASE NO. 6:19-CV-01567-JD

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
SERVICES; ALEX AZAR, in his official capacity as
Secretary of the UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES; ADMINISTRATION FOR CHILDREN AND
FAMILIES; LYNN JOHNSON, in her official capacity as
Assistant Secretary of the ADMINISTRATION FOR
CHILDREN AND FAMILIES; STEVEN WAGNER, in his
official capacity as Principal Deputy Assistant
Secretary of the ADMINISTRATION FOR CHILDREN AND
FAMILIES; HENRY MCMASTER, in his official capacity
as Governor of the STATE OF SOUTH CAROLINA;
and MICHAEL LEACH, in his official capacity as
State Director of the SOUTH CAROLINA DEPARTMENT OF
SOCIAL SERVICES,

Defendants.

30(b)(6)

VIDEOTAPED VTC

DEPOSITION OF: SOUTH CAROLINA DEPARTMENT OF
SOCIAL SERVICES

BY: SUSAN ROBEN

(Appearing by VTC)

DATE: FEBRUARY 17, 2022

TIME: 9:00 a.m.

LOCATION: [REDACTED]
[REDACTED]

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: Susan M. Valsecchi, RPR, CRR
Certified Realtime Reporter
(Appearing by VTC)

1 APPEARANCES OF COUNSEL VIA VTC:

2 ATTORNEYS FOR THE PLAINTIFFS

EDEN ROGERS and BRANDY WELCH:

3 CRAVATH SWAINE & MOORE

4 BY: KATHERINE DERINGER JANSON

SERENA CANDELARIA

5 (Appearing by VTC)

825 Eighth Avenue

6 New York, NY 10019

(212) 474-1247

7 scandelaria@cravath.com

kjanson@cravath.com

8 - and -

LAMBDA LEGAL

9 BY: CURREY COOK

MAIA ZELKIND

10 (Appearing by VTC)

120 Wall Street, Floor 19

11 New York, NY 10005-3919

(212) 809-8585

12 ccook@lambdalegal.org

mzelkind@lambdalegal.org

13 - and -

AMERICAN CIVIL LIBERTIES UNION (ACLU)

14 BY: LESLIE COOPER

(Appearing by VTC)

15 125 Broad Street, 18th Floor

New York, NY 10004

16 lcooper@aclu.org

17 ATTORNEYS FOR THE DEFENDANTS

18 HENRY MCMASTER, in his official

capacity as Governor of the STATE OF

19 SOUTH CAROLINA and MICHAEL LEACH, in

his official capacity as State Director

20 of the SOUTH CAROLINA DEPARTMENT OF

SOCIAL SERVICES:

21 NELSON MULLINS RILEY & SCARBOROUGH

22 BY: MILES COLEMAN

(Appearing by VTC)

23 Greenville ONE

2 W. Washington Street, Suite 400

24 Greenville, SC 29601

(864) 373-2352

25 miles.coleman@nelsonmullins.com

ATTORNEYS FOR THE DEFENDANTS

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES; ALEX AZAR, in his
official capacity as Secretary of the
UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES; ADMINISTRATION FOR
CHILDREN AND FAMILIES:

UNITED STATES ATTORNEY'S OFFICE
SOUTH CAROLINA

BY: CHRISTIE NEWMAN

(Appearing by VTC)

1441 Main Street, Suite 500
Columbia, SC 29201
(803) 929-3030
christie.newman@usdoj.gov

ALSO PRESENT VIA VTC:

Ashley Bowler, Videographer

(INDEX AT REAR OF TRANSCRIPT)

1 A. And I will clarify that to say that
2 this report is based on when the payments are made,
3 so there could be a timing issue here as well.

4 So our accounting system -- when we run
5 this data, our accounting system has no way to know
6 when the services were actually performed.

7 So take, for example, Lutheran Family
8 Services, while it could have been that they had
9 some families in fiscal year '20, maybe at the
10 later part, maybe April, May, June, but that those
11 payments weren't actually made until July or maybe
12 August of the next fiscal year.

13 Well, those payments are not going to
14 show up, then, until that next fiscal year. So our
15 accounting system is going to show them in fiscal
16 year '21. But if we dig into the data and pull --
17 drill down into each specific invoice, we'll see,
18 then -- possibly -- this is my -- I'm speculating
19 here -- but I have seen this on some of the
20 invoices -- that it's actually for a previous
21 fiscal year.

22 In our -- in the accounting system,
23 it's not based on service dates, it's based -- it
24 is literally based on this is when the invoice was
25 paid. And so it's not -- there could be timing

1 issues here as well. I just want to have -- I just
2 want to add that caveat.

3 Q. Okay. So -- so I can understand, so
4 there -- so if I'm a CPA, and I have, you know,
5 five families that I'm supporting that have
6 children placed with them and those children are
7 placed on, you know, day one, that's when I guess
8 we would -- that's when we would start sort of
9 counting, I suppose, for purposes of calculating
10 the number -- you know, the number of days for
11 which, you know, I'm entitled -- I being the
12 CPA -- the CPA is entitled to that admin rate,
13 right?

14 A. Uh-huh, correct.

15 Q. But what it sounds like you're
16 explaining is that, you know, the CPA doesn't get
17 that \$20 a day, or \$25 a day, or \$30 a day,
18 beginning on the first day the child is actually
19 placed, so there may be some lag time, processing
20 time, in terms of when the payment is actually made
21 to the -- from DSS to the CPA; is that correct?

22 A. Yeah, we don't pay the CPA daily. It's
23 a daily rate --

24 Q. I understand that, yeah.

25 A. But, yeah, we don't pay them daily. We

1 pay them on a -- we pay them monthly --

2 Q. Okay.

3 A. -- and there is a -- there is a delay,
4 so...

5 Q. Yep, okay, understood.

6 Yeah, you couldn't possibly pay
7 daily --

8 A. Yeah.

9 Q. -- that would be -- that would --
10 Okay. All right, so that's an
11 important -- an important caveat.

12 Okay. So looking down, then, at the
13 line for Miracle Hill Ministries, do you see
14 that --

15 A. I do.

16 Q. -- that line on the chart?

17 A. Yes.

18 Q. Okay. So Miracle Hill is a -- is a
19 nontherapeutic CPA; is that right?

20 A. Yes, I believe so.

21 Q. Okay. So I think what you just
22 testified to just a little while ago is that the
23 nontherapeutic CPAs didn't start to receive the
24 administrative fee -- that per-day, per-child
25 fee -- until halfway through fiscal year '19,

1 right?

2 A. Yes.

3 Q. So then what I'm -- what I'm trying to
4 understand, then, is this chart reflects that in
5 fiscal year '17, Miracle Hill received \$620,800 and
6 in fiscal year '18, Miracle Hill received \$592,080
7 in administrative fees. So I'm not understanding
8 what -- what those -- what those amounts are.

9 A. So Miracle Hill was an exception.
10 There was a decision made with a previous
11 administration, you know, way back in -- you know,
12 before this -- this chart started -- so prior to,
13 you know, July of 2016.

14 Um, and, again, I had -- I have gone
15 back, I have talked to Laura, I have tried to
16 figure out why we have tracked, so we've -- we've
17 tracked Miracle Hill's admin payments separately.
18 Miracle Hill is the only CPA that received, back at
19 that time, an admin fee of \$10 per day per child.

20 We've tried to go back to figure out
21 why that is and look at -- try to find
22 documentation, try to find reasoning, and we're
23 not -- we were not able to come up with -- we were
24 not able to find any reasonable explanation as to,
25 you know, why that was.

1 Again, it was a previous
2 administration, previous decisions that were made.
3 I have -- I have done research, I have asked other
4 people. Um, for some reason, though, we -- you
5 know, we were -- we had tracked Miracle Hill
6 separately, um, and so we are able to show the
7 amount of administrative fees that they have been
8 paid back to that time.

9 And so they -- they are the -- they
10 were the only ones that were receiving that
11 administrative fee.

12 And I will say that that \$188,000 that
13 shows in the current fiscal year is another one of
14 those -- those timing issues -- that because they
15 are no longer receiving an administrative fee; that
16 stopped. They're -- you know, they have said we
17 don't -- we don't want to receive an administrative
18 fee anymore, we're not going to accept the
19 administrative fee.

20 So that \$188,000 that you see in the
21 current fiscal year actually was paid in the
22 current fiscal year, but it was -- I looked up -- I
23 specifically looked up those invoices. It was for
24 the previous fiscal year. It was for services that
25 they -- you know, that were provided in June of

1 2021.

2 Q. Okay. Yeah, you anticipated what some
3 of my next questions --

4 A. I did.

5 Q. -- were going to be there, because --
6 and we'll get into this a little -- a little bit
7 more in detail later, but there was a point in the
8 middle of last year when Miracle Hill determined
9 that it was going to stop accepting the
10 administrative fee from DSS; is that right?

11 A. That's correct.

12 Q. And so but you're saying that -- and do
13 you know when -- do you know when -- what date that
14 decision was -- was effective as of?

15 A. It was effective as of -- they -- as of
16 June 30th, 2021, would be the ending, so then July
17 1st they were receiving -- July 1st, 2021 they
18 would receive no more administrative fee payments.

19 Q. Okay, so effective as of the start of
20 the 2022 fiscal year?

21 A. Correct.

22 Q. Okay. So the number here in this
23 chart, in the far right, or the
24 second-to-farthest-right column, about \$188,305,
25 you're explaining that that is -- those are

1 administrative fees that would have been paid for
2 the -- for the first -- services provided in the
3 first part -- in the second half of fiscal year
4 '21 -- but they just -- they just weren't paid,
5 because, like you said, there's sometimes a delay
6 in payments, that the money actually wasn't paid
7 out until -- until the fiscal year 2022.

8 A. Correct.

9 Q. Am I getting right?

10 A. Yes, that's correct.

11 Q. Okay. So going back to -- I guess to
12 the first -- the first two years, fiscal years '17
13 and '18, well, I guess for --

14 Yeah, for those -- for those first two
15 years, Miracle Hill is the only CPA on this list
16 for which administrative -- nontherapeutic CPA or
17 any CPA on this list -- for which administrative
18 fees were paid in those two years.

19 And you described to us that you've
20 looked into it, you're not sure why that is the
21 case, but, for whatever reason, that's the case and
22 those are the -- those are the numbers that are
23 reflected there.

24 As we move sort of into the later
25 years, in fiscal year '19, '20, and '21, just by

1 comparison, if you look at the figures that were
2 paid to Miracle Hill for administrative fees and
3 the figures that were paid to any of the
4 other -- the amounts that were paid to any of the
5 other CPAs in administrative fees in those years,
6 is it -- is it fair to say that Miracle Hill
7 received, by far, the largest amount of funding in
8 administrative fees during those years --

9 MR. COLEMAN: Object to the form.

10 BY MS. JANSON:

11 Q. -- compared to the other CPAs?

12 MR. COLEMAN: I apologize, Kate, I cut
13 off the last part of your question there, sorry.

14 MS. JANSON: No, that's okay.

15 Um, yeah, I was just -- think we got
16 it.

17 BY MS. JANSON:

18 Q. My question is, Is it fair to say that
19 Miracle Hill received, by far, the largest amount
20 of funding in administrative fees during the fiscal
21 years reflected in this chart?

22 MR. COLEMAN: Object to the form of the
23 question, but you can answer it.

24 THE WITNESS: Um, yes, according to the
25 chart, that is what is showing.

1 year 2019.

2 Is that right?

3 A. Um, prior to January '19.

4 Q. Prior to January of 2019, got it, thank
5 you. And so were there -- prior to January 2019,
6 there were nontherapeutic CPAs licensed by the
7 State of South Carolina that were providing foster
8 care services; is that right?

9 A. I believe so, but that would be a
10 question for Jackie or Dawn.

11 Q. Okay. You -- you can't tell me for
12 certainty that prior to January of 2019, there were
13 any nontherapeutic CPAs operating under license in
14 South Carolina?

15 A. So I don't do the licensing. I'm in
16 the fiscal side. We made -- I can tell you what
17 payments we made, but I am not certain at this time
18 which are therapeutic and which are nontherapeutic,
19 so I would need to verify that with Jackie, which
20 are therapeutic and which are nontherapeutic; and
21 then I would be able to tell, from the payments we
22 made, if we -- you know, if they were -- based on
23 the payments we made -- if they were therapeutic,
24 nontherapeutic, if they were licensed -- you know,
25 that we were making those payments, but --

1 Q. Okay.

2 A. -- based on this information right now,
3 I -- I can't with certainty tell -- answer that
4 question.

5 Q. Okay. So let's assume that there were
6 nontherapeutic CPAs that were licensed by the State
7 of South Carolina prior to January 2019 and that
8 they were performing, you know, this work, you
9 know, pursuant to their contracts of recruiting,
10 screening, supporting foster -- prospective foster
11 families and foster families after -- after
12 licensure.

13 Assuming that there were nontherapeutic
14 CPAs doing that work prior to January 2019, we've
15 established that they were not receiving
16 administrative fees prior to January 2019 --

17 A. Correct.

18 Q. -- so would they have been receiving
19 any payments from the State of South Carolina for
20 the work that they were doing?

21 A. In terms of the work -- I'm trying
22 to -- I'm trying to understand.

23 Are we getting back to the question of,
24 like, the different contracts, transportation
25 contracts again, or are you talking strictly on the

1 work with -- specifically the work with the foster
2 families in --

3 Q. Yeah, the --

4 A. Yeah.

5 Q. -- specifically the work with the
6 foster families.

7 What I'm trying to get at is we've
8 established that they were not getting this
9 administrative fee, this per-child-per-day payment
10 for children placed with the families that those
11 CPAs supported prior to January 2019?

12 A. Okay.

13 Q. So my question is, you know, were
14 they -- were they getting paid by the State in some
15 other way to do this work or were they doing it for
16 free?

17 A. So they were getting -- the regular
18 nontherapeutic were not getting paid an
19 administrative fee prior to that time.

20 Q. Were they getting paid anything?
21 Another type of fee? Was there a different payment
22 structure in place at that time apart from
23 the -- that's different from the administrative
24 fee? I'm just trying to understand, if they're not
25 getting the admin fee, and they're doing all of

1 this work to bring in the families, screen them,
2 help them get licensed, support them, train them,
3 you know, how are they getting paid for that? Or
4 are they doing it for free?

5 A. So we don't -- we don't know. We were
6 paying -- um, well, let me back up. There's a lot
7 of dates and I'm trying to keep them all straight
8 in my head.

9 So, yeah, we were paying the
10 foster -- the regular foster homes directly, so
11 that would be correct, they were -- they were not
12 receiving any fee. They were not receiving an
13 administrative fee, and they were -- I
14 would -- that would be true, that they were doing
15 it for no -- for no -- for no payment.

16 Q. They were doing it for free, um, okay.

17 And that is, of course, Miracle Hill
18 being the exception, as we've discussed --

19 A. Correct.

20 Q. -- because Miracle Hill was receiving
21 substantial amounts in administrative fees during
22 the years prior to January 2019 that are reflected
23 on this chart, right?

24 A. Yes.

25 Q. Okay. So if we can look at the

1 two -- the two columns on the chart for fiscal year
2 2021 and the first half of fiscal year 2022.

3 If you -- is it fair to say that if a
4 CPA is not included on this chart, that would mean
5 that they received no administrative fees in fiscal
6 year 2021 or the first portion of fiscal year 2022;
7 is that right?

8 A. That's correct.

9 Q. And if they received no administrative
10 fees, that would mean that they had no children
11 placed with foster families that those CPAs
12 supported; is that right?

13 MR. COLEMAN: Object to the form of the
14 question, but you can answer.

15 THE WITNESS: Yes, that would
16 be -- that would be my assumption, yes.

17 BY MS. JANSON:

18 Q. Okay. There isn't any reason that a
19 foster family -- or a CPA -- would have children
20 placed with families it supported during those
21 years but not be receiving the administrative rate,
22 right?

23 A. Not to my knowledge, no.

24 Q. And you're speaking as the
25 representative for DSS on this topic. So when you

1 say "not to my knowledge," you're really saying not
2 to DSS's knowledge, right?

3 A. Correct, yes.

4 Q. Okay, uh, so -- all right, looking back
5 to the last of the chart, under each of
6 these -- under each of the provider names, the CPA
7 names listed, and there's two rows. There's state
8 general funds and federal funds.

9 Um, and we talked a little -- we talked
10 some about this -- about this earlier -- but can
11 you describe to me what -- what state general funds
12 means?

13 A. Uh, well, so that -- I mean, I'm not
14 sure how to describe it in really any other way.
15 It's really our state appropriations, the state
16 appropriations from the General Assembly.

17 Q. Okay.

18 A. And, I'm sorry, I do need to back up; I
19 apologize. But there -- there are -- I misspoke
20 just a minute ago. I believe that there are a few
21 CPAs that did not sign -- we -- we issued a new
22 contract effective January 1st of 2021.

23 When the -- when the providers started
24 receiving the new administrative rate of \$20, \$25
25 and \$30 a day, there were, I believe, a few -- and

1 between those two numbers and what we know about
2 and what we've discussed about what the two charts
3 reflect, that there was -- there's a significant
4 amount of funding that Miracle Hill was receiving
5 separate and apart from the administrative fees,
6 right?

7 A. Um, yes, I know at some point -- at one
8 point -- and I don't know when they stopped -- but
9 they were also running a group home. They also had
10 a group home --

11 Q. Okay.

12 A. -- obviously apart from their -- their
13 CPA provider.

14 Um, so, but I believe that that -- and,
15 again, I would have to double check -- but I'm
16 pretty sure that they no longer run a group home,
17 but I -- but I don't have that date of when that
18 stopped. It may have been sometime in 2020.

19 Q. Okay. So some of that difference
20 between those two numbers might be accounted for by
21 the fact that they were running a group home at
22 some point and they were receiving payments from
23 that?

24 A. That could be, uh-huh.

25 Q. Is it possible that there are other

1 amounts of funding that Miracle Hill was receiving?
2 Maybe they had -- and I know you don't have the
3 specifics on this -- but maybe they had a
4 transportation contract, like we talked about, or I
5 think we said that -- yeah, maybe they had a
6 transportation contract, for example.

7 MR. COLEMAN: Object to the form of the
8 question to the extent it calls for speculation,
9 but you can answer.

10 THE WITNESS: Yeah, again, I would be
11 speculating on that; but, to my knowledge, Miracle
12 Hill has not had a transportation contract with
13 DSS.

14 BY MS. JANSON:

15 Q. Okay. Bad example.

16 What I'm trying to understand is simply
17 when -- when Miracle Hill announced that it was
18 going to stop accepting government funding, we know
19 that that means it's no longer accepting the
20 administrative fee; but does that also mean it's no
21 longer accepting any funding whatsoever from DSS
22 related in any way to foster care?

23 A. I would be --

24 MR. COLEMAN: Object to the form.

25 THE WITNESS: I would be speculating on

1 what they mean by what they're saying in that
2 paragraph.

3 BY MS. JANSON:

4 Q. Okay, okay, that's fair enough.

5 And so when we were looking at -- when
6 we were looking at Tab 2 earlier -- and that's the
7 chart of the Child Placing Agency Administrative
8 Fees -- we looked at the fact that there's a
9 number, a \$188,000 number, included there for the
10 first half of fiscal year '22 -- '20 -- yeah,
11 fiscal year 2022 -- and we -- we discussed the fact
12 that even though those payments were made after the
13 effective date of Miracle Hill's announcements that
14 it wasn't going to accept anymore government
15 funding, it's really just a timing issue there and
16 that those were administrative fees being paid for
17 children placed in the later months, for instance,
18 the later months of fiscal year 2021.

19 Do you remember that discussion?

20 A. Yes.

21 Q. And so, uh, can you tell us with
22 certainty that all of that -- all of that \$188,000
23 is, in fact, accounted for by that explanation and
24 that Miracle Hill, in fact, has not received any
25 administrative fees for services provided in fiscal

1 year 2022 after its announcement?

2 A. Yes, I have verified that.

3 Q. Okay, great. So you've verified that
4 they're not getting any administrative rates
5 after -- they have not received any administrative
6 rates for services provided after June 30th, 2021.

7 Do you know whether Miracle Hill
8 is -- has gotten any funding whatsoever from DSS in
9 the period after June 30th, 2021?

10 A. I can't answer that right now.

11 Q. Okay.

12 A. I would have to check.

13 Q. Okay. Is that something that would
14 be -- would be knowable if you had -- if you had
15 time to check?

16 A. Um, I mean, it's something that we
17 certainly -- that somebody could certainly look
18 into, yes.

19 Q. Okay. Do you know whether Miracle Hill
20 is still receiving the -- that board payment, the
21 maintenance payment, from DSS to pass along to the
22 families that it worked with that have children
23 placed with them?

24 A. So I believe that we are paying the
25 Miracle Hill CPA homes directly. Again, that's

1 another nuance. I -- I may not have mentioned that
2 earlier, but we are paying those homes directly
3 under Miracle Hill.

4 So we don't pay that to Miracle Hill
5 and then expect them to pay, to pass it on. We pay
6 those homes, directly to the homes.

7 Q. Has it always worked that way?

8 A. I believe it has, yes.

9 Q. Okay. So that was not a -- that was
10 not a change that was made as a result of Miracle
11 Hill's decision last year to --

12 A. No.

13 Q. -- stop accepting funds?

14 A. No.

15 Q. Okay. How did Miracle Hill notify DSS
16 of its decision to stop accepting government
17 funding for its foster care program effective July
18 1st, 2021?

19 A. That, I'm not sure of. I believe --
20 I'm not sure. That would be something that Dawn
21 Barton and/or Jackie Lowe would -- would have the
22 answer to.

23 MS. JANSON: Serena, let's look at Tab
24 9, if we can.

25 (EXHIBIT 5, State of South Carolina

1 Change Order 5; Bates 10545-G0250, was marked for
2 identification.)

3 MS. JANSON: Let me know when you have
4 that up.

5 MR. COLEMAN: Okay, we've got it.

6 MS. JANSON: Okay.

7 BY MS. JANSON:

8 Q. So we are up to Exhibit 5, I believe.
9 So let's mark as Exhibit 5 a document that's
10 entitled State of South Carolina Change Order
11 Number 5, and it's Bates stamped 10545-G0250 to
12 251.

13 Have you seen this document before,
14 Ms. Roben?

15 A. Yes.

16 Q. I see that you signed it at the bottom,
17 or you digitally signed it?

18 A. Correct.

19 Q. Can you describe for me what this is?

20 A. Um, so this is -- this is what we call
21 one of our change orders. And this was sent out
22 to -- well, all of our nontherapeutic foster
23 families -- or not our foster families, our CPAs.

24 And this is basically we had a -- we
25 had a change in our monthly rate, or the -- well,

1 Roben?

2 A. I have.

3 Q. And can you explain to me what this is?

4 A. Let's see. All right. Sorry, I've got
5 to get back to the top one.

6 Q. Okay.

7 A. It might help if I do this with my
8 right hand and not my left hand.

9 So this is -- this looks like this is
10 our emergency -- one of our emergency contracts
11 for, um -- between South Carolina DSS and South
12 Carolina Mentor, um, for them to provide -- as a
13 CPA for nontherapeutic services.

14 Q. Okay. And what does it mean -- what
15 does it mean that it's an emergency contract?

16 A. So, again, I am not the procurement
17 expert, and so I am -- I am probably not the best
18 one to answer this. I'm trying to think of
19 the -- so we issue emergency contracts
20 when -- basically when there is -- there is
21 not -- when the health and wellbeing of the
22 children of South Carolina are, you know, in harms
23 way, basically.

24 So if we were -- if we were -- if we
25 did not issue this contract, then we would not be

1 able to, um, have a contract with South Carolina
2 Mentor, they would not be able to take children,
3 or, you know, become a -- we would not be able to
4 pay them, they would not be able to basically start
5 taking children under their -- under the CPA
6 provisions, um, and then we would
7 have -- potentially we would have children that
8 would not be able to find a foster home.

9 And that, obviously, is not in the best
10 interest -- we don't want children -- I mean, we
11 know that children are best suited in loving foster
12 families, not necessarily in congregate care
13 facilities, or in other facilities. We want them
14 in a stable environment. So that's -- that's
15 really what we mean by an emergency contract. So
16 there's -- we are -- we are working on a -- on a
17 procurement, but regular procurements take a long
18 time, sometimes a year and a half, and so until
19 that gets done, we really -- I don't want to say we
20 don't have a choice, but we really have -- this is
21 the way to get this done in a quick manner for
22 something that really is for the best interest and
23 the health and well being of the children in South
24 Carolina's care and custody.

25 Q. Okay, that's helpful; thank you.

1 So I picked, just an example, an
2 example of a contract between DSS, and, you know,
3 one of the nontherapeutic CPAs here, South Carolina
4 Mentor, just so we can look at some of the
5 provisions in here.

6 But does DSS enter into the same
7 emergency contract, or an equivalent emergency
8 contract, with all of the nontherapeutic CPAs that
9 are licensed?

10 A. At this point, yes, until we're able to
11 move forward with a full solicitation RFP process,
12 uh-huh.

13 Q. If we look at Article I here about
14 halfway through the first page, it says Contract
15 Period and it says, The emergency contract must
16 take effect as of August 1, 2020 and must continue
17 in full force and effect through December 31, 2022
18 [sic].

19 So that's the -- that's the time period
20 of this; is that right?

21 A. December 31st, 2020. I think you said
22 2022.

23 Q. I said it wrong again. Thank you for
24 catching my error. Yes, December 31st, 2020.

25 Okay. And then if we go -- if we flip

1 ahead to Page 5 of the document itself, there's a
2 heading there, B, Limit on Total Reimbursement.

3 Do you see that?

4 A. I do.

5 Q. And I'm just going to read that. It
6 says, SCDS -- SCDSS -- will reimburse the licensed
7 regular child placing agency under this emergency
8 contract a monthly rate of \$300 per child, or \$10
9 per child per day if less than 30 days in a given
10 month.

11 And so that's a reference to the
12 administrative rate that we've been discuss, right?

13 A. Correct.

14 Q. And so at the time of this emergency
15 correct, which was August 1 through December 31,
16 2020, the rate was \$30 per month per child, or
17 \$10 -- I'm sorry -- \$300 per month per child, or
18 \$10 per child if less than 30 days in a given
19 month; is that right?

20 A. That's correct.

21 Q. And so at this point, there wasn't --
22 there wasn't a distinction between the ages of the
23 children, or there were not different -- different
24 rates provided for different -- different brackets
25 of ages --

1 A. No.

2 Q. -- like we discussed earlier?

3 A. No, no, that started on
4 January -- January 1st of 2021.

5 Q. Okay. And underneath the part I just
6 read it says -- in bold there it says, Total funds,
7 \$150,000. What does that indicate?

8 A. So with each contract, we have to issue
9 a dollar amount on -- on the contract, on the
10 purchase order, there has to be a dollar amount.

11 And so this was our -- this was the
12 estimate given to this -- this particular contract.
13 That doesn't mean that they're absolutely limited
14 and then cut off at that point in time. We can
15 always increase that dollar amount if -- if need
16 be, but there has to be a -- there has to be a
17 dollar amount on each contract. And so it's -- on
18 contracts like this where it's -- it's really just
19 based on the number of children. And we're not
20 going to cut that off, obviously. If they're
21 placing more children, then we're going to increase
22 that dollar amount. But they won't necessarily --
23 they may not use that total \$150,000; it may be
24 less. So it's somewhat arbitrary for these types
25 of contracts.

1 nontherapeutic CPAs, right?

2 A. Yes.

3 Q. And if you look at the columns for
4 fiscal year '17 and fiscal year '18, you'll note
5 that all of those -- that for every CPA on this
6 list, apart from Miracle Hill, for every other CPA,
7 there are no amounts listed as administrative fees
8 having been paid in fiscal year '17 or '18,
9 right --

10 A. Correct.

11 Q. -- except for Miracle Hill, right?

12 A. Correct.

13 Q. So my question is, for the therapeutic
14 CPAs on this list, does that mean that they were
15 also not receiving any administrative fee in fiscal
16 year '17 or '18?

17 A. So I believe I talked about this
18 earlier. The therapeutic CPA providers were being
19 paid \$10 a day per child if they had a
20 nontherapeutic child placed in their therapeutic
21 home, but it was not -- it was not called or
22 separated out as an administrative -- as a separate
23 administrative fee, it was in addition to their
24 regular board payment, so it was added on as part
25 of their board payment. So we cannot separate that

1 out. We don't have any way of separating that out
2 as an administrative fee, so we can't -- it's not
3 going to be -- we're not able to pull that amount
4 into this report. So we don't have any way of
5 knowing what that separate \$10-per-day/per-child
6 fee is because it was added onto their maintenance
7 payment.

8 Q. Okay, understood. So that's -- that's
9 an accounting sort of record -- recordkeeping issue
10 that leads to the blanks here for -- for the
11 nontherapeutic CPAs, right?

12 A. I don't know that I would say it's an
13 accounting issue. It really was not considered --
14 back in that time, '17 and '18, it was not
15 considered, really, an administrative -- it wasn't
16 called an administrative fee. It was a -- it was a
17 payment that was added on to their -- as part of
18 their -- their maintenance payment. And, again,
19 I'm speculating, because that was a long time ago.

20 Q. Yes.

21 A. But from my talking to other staff and
22 from my research, it was -- it was a fee that was
23 added onto their maintenance fee -- their
24 maintenance payment, not their maintenance fee.

25 Q. Okay. And that \$10, was that added on

1 just for -- I think you had said earlier that it
2 was added on in the case where there was a
3 nontherapeutic placement with a therapeutic
4 foster -- foster home -- is that right?

5 A. With a therapeutic foster child, a
6 non -- a thera -- so a therapeutic -- a therapeutic
7 home that had a nontherapeutic child in that home.

8 Q. Okay. And so -- and so was there any
9 admin rate or extra amount on top of the board
10 payment that was being paid for therapeutic foster
11 placements in those homes, or was it just for a
12 nontherapeutic foster placement within a
13 therapeutic foster home, if that makes sense?

14 A. I believe it does. I -- I can't answer
15 that. I would need to go back and do some more
16 research on that -- on that one.

17 Q. Okay. And are you -- are you
18 able -- you know, we -- I keep -- I keep going back
19 to this question of no administrative fee being
20 paid to nontherapeutic CPAs prior to 2019.

21 Do you know with certainty that those
22 nontherapeutic foster -- or those nontherapeutic
23 CPAs were, in fact, providing their foster care
24 services for free prior to January 1st of 2019?

25 A. Based on the information that I have

1 gathered and the research that I have done, that is
2 the conclusion that I have come to.

3 Q. So you don't know for sure?

4 A. I mean, I don't know where -- I
5 mean -- I'm -- well --

6 Effective January -- what I know is
7 that effective January '19 is when the regular CPA
8 providers began to receive the \$10 per day per
9 child. They did not receive it before then.

10 Q. But you don't know for sure, or you
11 can't tell me with certainty right now whether
12 there may have been some other -- or whether there
13 was some other funding mechanism whereby those
14 nontherapeutic CPAs were being paid for their
15 foster care services prior to that January 2019
16 initiation of the admin fee, right?

17 A. There wouldn't have been any other
18 funding mechanism.

19 Q. There would not have been, or there was
20 not?

21 A. There wouldn't -- there was not any
22 other funding mechanism. We were not paying them
23 any other -- any other way.

24 Q. So they were providing those foster
25 care services -- recruiting, screening,

1 supporting/training prospective foster families and
2 families after they received licensure from DSS --
3 they were doing all of that work for free?

4 MR. COLEMAN: Object to the form of the
5 question to the extent that "for free" is a little
6 bit ambiguous, but you can answer.

7 THE WITNESS: I am saying that,
8 effective January of 2019, is when the regular
9 nontherapeutic CPA providers began to receive the
10 \$10-per-child/per-day administrative fee. They did
11 not receive it before then.

12 BY MS. JANSON:

13 Q. But they were -- but they were -- at
14 least some of them -- were working as licensed CPAs
15 and providing those foster care services before
16 then, right?

17 A. That is my understanding, yes.

18 Q. Okay. And so they -- and so then they
19 were -- they must have been doing all of those --
20 providing all of those service and all of that work
21 without receiving any government funding from DSS?

22 A. Yes.

23 Q. Why would they do that? How would they
24 pay -- how would those CPAs pay their employees,
25 for instance?

1 MR. COLEMAN: Object to the form of the
2 question on the basis that it calls for
3 speculation. But if you know the answer, you can
4 answer it.

5 THE WITNESS: I can't answer that
6 question.

7 BY MS. JANSON:

8 Q. With regard to Miracle Hill, I think
9 you testified earlier that the Miracle Hill -- the
10 foster families that are supported by Miracle Hill
11 have always gotten their -- have their board
12 payments paid directly by DSS; is that right?

13 A. Yes.

14 Q. And that's not the case for other
15 nontherapeutic CPAs, right?

16 MR. COLEMAN: Object to the form of the
17 question to the extent it misstates prior
18 testimony, but you can answer.

19 THE WITNESS: Sorry. Can you repeat
20 that question?

21 BY MS. JANSON:

22 Q. Sure.

23 I think you testified earlier that at
24 some point there was a change by which the board
25 payment that goes to the foster families was paid

1 from DSS to the CPA and then passed on to the
2 family, right?

3 A. Yeah, so the -- DSS paid the regular
4 CPA homes, or the nontherapeutic homes, directly
5 through December of 2020.

6 And then starting on January 1st, 2021,
7 DSS started paying the CPA providers directly for
8 those homes, and they passed it on to the homes.

9 Q. But not for Miracle Hill, right?

10 A. Yes, with that exception.

11 Q. Why -- why was it that that was handled
12 differently for Miracle Hill than for the other
13 nontherapeutic CPAs?

14 A. I can't answer that. I'm not sure.

15 Q. We talked a little bit earlier about
16 how you had -- how you had learned of Miracle
17 Hill's decision to stop funding -- or to stop
18 accepting government funding -- and I believe you
19 said that you had learned from Dawn Barton; is that
20 right?

21 A. Yes.

22 Q. What exactly did Dawn tell you in that
23 conversation?

24 A. What exactly did she say? I don't
25 remember. It was quite a while ago.